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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,106	10/22/2001	Heinz Wolleb	EL/2-21812/A/CONT/DIV	5985

324 7590 07/31/2003

CIBA SPECIALTY CHEMICALS CORPORATION  
PATENT DEPARTMENT  
540 WHITE PLAINS RD  
P O BOX 2005  
TARRYTOWN, NY 10591-9005

EXAMINER
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ANGEBRANNDT, MARTIN J

ART UNIT	PAPER NUMBER
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1756

DATE MAILED: 07/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/037,106

Applicant(s)

WOLLEB ET AL.

Examiner

Martin J Angebranndt

Art Unit

1756

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 July 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

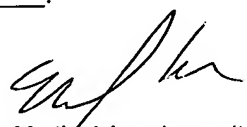
3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.Claim(s) objected to: none.Claim(s) rejected: 2-4 and 8-23.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
Martin J Angebranndt  
Primary Examiner  
Art Unit: 1756

Continuation of 3. Applicant's reply has overcome the following rejection(s): The rejection under 35 USC 112 and 35 USC 102 and the double patenting rejection..

Continuation of 5. does NOT place the application in condition for allowance because: The applicant argues that there is no evidence that the ferrocenyl moiety would behave the same when attached at different portions of the phthalocyanine molecule. This ignores the admission of the applicant with respect to EP 600427 on page 3 of the instant specification which indicates that additives including ferrocenes are known in the art to improve the stability/properties of optical recording layers in optical recording media. This reference is cited on the PTO 1449 of 2/13/2002 by the applicant and therefore is of record. The prior art of record indicates that the ferrocene has a positive impact on the recording layer when attached to the phthalocyanine or present as a separate molecule. The applicant has pointed out that the Kimura et al. reference does not indicate the magnitude of the benefit, but lumps the various substituent together when describing the effects attributed to them. This presents the applicant with the opportunity to present evidence comparing the compound of the presently claimed invention with the phthalocyanine-ferrocene exemplified by Kimura et al. to clearly establish for the record that the invention realizes differences/increases in the magnitude of the stabilization or other properties/benefit not recognized by the prior art of record. The applicant fail to accord one of ordinary skill in the art with appreciation of the spectral properties of the dyes and the nexus between the optical recording and liquid crystalline arts established by Itoh et al. with Cook.

  
7/30/05